A REMONSTRANCE OF THE DECLARATION

Of the Lords and Commons, now assembled in Parliament, 26 of *MAY*, 1642.

In answer to a DECLARATION under his Majesties Name concerning the businesse of *Hull*, sent in a Message to both Houses the 21 of *May*, 1642.

According to an Order made in the House of *Commons*, on Saturday last, I have examined this Copie with the Originall, and have mended it.
H. Elsyng. Cler. Parl. D. Com.

LONDON,
Printed for *Richard Lownds*, 1642.

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The third Remonſtrance.

ALthough the great affaires of this Kingdome and the miſerable and bleeding condition of the Kingdome of *Ireland*, affords us little leaſure to ſpend our time in Declarations, and in Anſwers and Replyes, yet the Malignant party about His Majeſtie, taking all occaſions to multiply Calumnies upon the houſes of Parliament, and publiſh ſharp invectives under His Majeſties Name againſt them and their proceedings, a new Engine which they have invented to heighten the deſtructions of this Kingdome and to beget and increaſe diſtruſt and diſaffection betweene the King and his Parliament, and the People; We cannot be ſo much wanting of our Innocencie, or to the dutie of our Truſt, as not to cleere our ſelves from thoſe aſpertions and (which is our chiefeſt care) to diſabuſe the Peoples mindes, and open their eyes, that under the falſe ſhewes and pretexts of the Law of the Land and of their owne Rights and Liberties, they may not bee carried into the Roade way, that leadeth to the utter ruine and ſubverſion thereof. A late occaſion that theſe wicked ſpirits of diviſion have taken to defame, and indeed to arraigne the proceedings of both Houſes of Parliament, hath bin from our Votes of the 28. of *April*, and our Declaration concerning the buſineſſe of *Hull*, which becauſe we put forth, before we could ſend our An-

ſwer concerning that matter unto his Majeſty, thoſe miſchievous Inſtruments of diſſention, betweene the King, the Parliament and the people, whoſe chief labour and ſtudy is to miſrepreſent our Actions to his Majeſty and to the Kingdome, would needs interpret this as an appeal to the people, and a declining of all Intercourſe between his Majeſty and us, as if wee thought it to no purpoſe toendevour any more to give him ſatisfaction, & without expecting any longer our anſwer, under the name of a Meſſage from his Majeſty to both Houſes, they then ſelves have indeed made an Appeal to the people as the Meſſage it ſelfe doth in a maner grant it to be, offering to joyn iſſue with us in that way, and in the nature thereof, doth cleerly ſhew it ſelf to be no other, Therefore we ſhal likewiſe addreſſe our Anſwer to the Kingdom, not by way of Appeale as wee are charged) but to prevent them from being their own executioners, & from being perſwaded under falſe colours of defending the Law, and their own Liberties to deſtroy both with their own hands, by taking their Lives, liberties, and eſtates, out of their hands whom they have choſen and entruſted therewith, and reſining them up unto ſome evill Councellors about his Maieſtie, who can lay no other foundation of their own greatneſſe, but upon the ruine of this, and in it of all Parliaments, and in them of the true Religion, and the freedome of this Nation. And theſe are the men that would perſwade the people, that both Houſes of Parliament containing all the Peeres, and repreſenting all the Commons of England would deſtroy the Lawes of the Land and liberty of the people, wherein beſides the truſt of the whole, they themſelves in their owne particulars, have ſo great an intereſt of honour and eſtate that we hope it will gain little credit, with any that have the leaſt uſe of reaſon, that ſuch as muſt have ſo great a ſhare in the miſery, ſhould take ſo much paines in the procuring thereof and ſpend ſo much time, and runne ſo many hazards to make themſelves ſlaves, and to deſtroy the property of their eſtates But that we may give particular ſatisfaction to the ſeverall imputations caſt upon us, we ſhal take them in order as they are laid upon us in that Meſſage. Firſt, wee are charged for the avowing of that Act of Sir *John Hotham*, which is termed unparalelled, and an high and unheard of Affront unto his Majeſty, & as if we needed not to have done it, he being able as he is alleaged, to produce no ſuch command of the Houſes of Parliament. Although Sir *John Hotham*

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had not an Order that did expresse every circumstance of that case, yet hee might have produced an Order of both Houses which did comprehend this Case, not onely in the cleere intention, but in the very words thereof, which knowing in our Consciences to be so, and to be most necessary for the safetie of the Kingdome, we could not but in Honour and Justice avow that act of his, which we are confident will appeare to all the world to be so farre from being an Affront to the King, that it will be found to have beene an Act of great loyalty to his Majestie, and to his Kingdome.

The next charge upon us is, that in stead of giving His Majestie satisfaction, we published a Declaration concerning that businesse, as an appeale to the people, and as if our intercourse with his Majestie, and for his satisfaction, were now to no more purpose, which course is alledged to be very unagreeable to the modesty and duty of former times, and not warrantable by any Presidents, but what our selves have made. If the Penner of this Message had expected a while, or had not expected, that two Houses of Parliament, (especially burthened as they are at this time with so many pressing and urgent affaires) should have moved as fast as himselfe, hee would not have said that Declaration was instead of an Answer to His Majestie, which we did dispatch with all the speed and diligence we could, and have sent it to His Majestie by a Committee of both Houses, whereby it appeares that wee did it not upon that ground, that we thought it was no more, to any purpose to indeavour to give His Majesty satisfaction. And as for the duty and modesty of former times from which we are laid to have varied, and to want the warrant of any Presidents therein, but what our selves have made: but if wee have made any Presidents this Parliament, we have made them for posterity, upon the same or better grounds of reason & Law then those were upon which our Predecessors first made any for us, and as some presidents ought not to be rules for us to follow; so none can be limits to bound our proceedings, which may and must vary according to the different condition of times, and for this particular of setting forth Declarations for the satisfaction of the People, who have chosen and entrusted us with all that is dearest to them, if there be no example for it, it is because there were never any such Monsters before that, ever attempted to disaffect the people from a Parliament, or could ever harbour a thought that it might be effected; were there ever such practices to poyson

the people with an ill apprehenſion of the Parliament, were there ever ſuch imputations and ſcandals laid upon the proceedings of both Houſes; were there ever ſo many, and ſo great breaches of priviledge of Parliament, were there ever ſo many, and ſo deſperate deſignes of force and violence againſt the Parliament, and the members thereof, If we have done more than ever our Anceſtors have done, we have ſuffered more than ever they have ſuffered, and yet in point of modeſty and duty we ſhall not yeeld to the beſt of former times, and we ſhall put this in iſſue, whether the higheſt and moſt unwarrantable precedents of any of His Majeſties Predeceſſors, doe not fall ſhort and much below what hath beene done unto us this Parliament; And on the other ſide, whether if we ſhould make the higheſt Preſidents of other Parliaments our patternes, there would be cauſe to complaine of want of modeſtie and duty in us, when we have not ſo much as ſuffered ſuch things to enter into our thoughts, which all the world knowes they have put in Act.

Another Charge which is laid very high upon us (and which were indeed a very great Crime if we were found guilty thereof) is that by avowing this Act of Sir *John Hotham*, wee doe in Conſequence confound and deſtroy the title and Intereſt of all his Majeſties good ſubjects to their Lands and goods, and that upon this ground, That his Majeſtie hath the ſame title to his towne of *Hull* which any of his ſubjects have to their houſes or lands, and the ſame to his Magazin and Munition there, that any man hath to his money, plate, or Jewels, and therefore that they ought not to have beene diſpoſed of without or againſt his conſent, no more then the Houſe, land, money, plate, or Jewels, of any ſubject ought to be without or againſt his will.

Here that is laid downe for a Principle which would indeed pull up the very foundation of the Liberty, property and intereſt of every ſubject in particular, and of all the ſubjects in generall, if we ſhould admit it for a truth that his Majeſtie hath the ſame right & Title to his Towns and to his Magazin (bought with the publick moneys as we conceive that at Hull to have beene) that every particular man hath to his houſe, lands, and goods, for his Majeſties townes are no more his owne then his Kingdome is his owne, and his Kingdome is no more his own, then his people are his own, and if the King had a propriety in all his Townes what would become of the ſubjects propriety in their houſes therein and

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if he had a propriety in his Kingdome, what would become of the ſubjects propriety in their lands throughout the Kingdome, or of their liberties if his majeſtie had the ſame right in their perſons that every ſubject hath in their lands, or goods, and what ſhould become of all the ſubjects intereſt in the Townes and Forts of the Kingdome it ſelf, if his Majeſtie might ſell or give away, or diſpoſe of them at his pleaſure as a particular man may doe with his Lands and with his Goods. This erronious maxime, being infuſed into Princes that their Kingdomes are their owne, and that they may doe with them what they will (as if their Kingdomes were for them, and not they for their Kingdomes) is the Root of all the ſubjects miſery, and of the Invading of their juſt Rights and Liberties, whereas indeed they are only intruſted with their Kingdomes, and with their Towns, and with their people, and with the publique Treaſure of the Common-wealth, and whatſoever is bought therewith and by the knowne Law of this Kingdome the very Jewels of the Crown are not the Kings proper goods, but are only intruſted to him for the uſe and ornament thereof. As the Towns, Forts, Treaſure, Magazin, Offices and people of the Kingdome, and the whole Kingdome it ſelfe is intruſted unto him for the good and ſafty and beſt advantage thereof, and as this truſt is for the uſe of the Kingdome, ſo ought it to bee managed by the advice of the Houſes of Parliament, whom the Kingdome hath truſted for that purpoſe, it being their duty to ſee it be diſcharged according to the condition and true intent (thereof, and as much as in them lyes by all poſſible meanes to prevent the contrary, which if it hath bin their chiefe care and only Ayme in the diſpoſing of the Towne and Magazin of Hull in ſuch manner as they have done, they hope it will appeare clearely to all the world, that they have diſcharged their owne truſt, and not invaded that of his Majeſties, much leſſe his property which in this caſe they could not doe.

But admitting His Majeſtie had indeed had a propertie in the Towne and Magazine of *Hull*, who doubts but that a Parliament may diſpoſe of any thing wherin His Majeſtie or any Subjects hath a right, in ſuch a way, as that the Kingdome may not be expoſed to hazard or danger thereby, which is our caſe in the diſpoſing of the Town and Magazine of *Hull*. And whereas his Majeſtie doth allow

low and this a great power to a Parliament, but in that ſence only as he himſelfe is a part thereof, wee appeale to every mans Conſcience that hath obſerved our proceedings whether we disjoyned his Majeſty from his Parliament, who have in all humble wayes ſought his concurrence with us, as in this particular about *Hull*, and for the removeall of the Magazine there, ſo alſo in all other things, or whether theſe evill Counſels about him have not ſeparated him from his Parliament, not onely in diſtance of place, but ſo in the diſcharge of this joynt truſt with them for the peace and ſafety of the Kingdome in this and ſome other particulars.

We have given no occaſion to his Majeſty to declare his reſolution with ſo much earneſtnes, that hee wil not ſuffer either or both Houſes by their Votes without or againſt his conſent to enjoyn any thing that is forbidden by the Law, or to forbid any thing that is injoyned by the Law. For our Votes have done no ſuch thing, and as we ſhall be very tender of the Law (which we acknowledge to be the ſafeguard & cuſtody of all publick and private Intereſſes) ſo we ſhall never allow a few private perſons about his Majeſty, nor his Majeſty himſelfe in his owne Perſon and out of his Courts to be Judge of the Law, and that contrary to the judgment of the higheſt Court of Judicature: In like manner that his Majeſty hath not refuſed to conſent to any thing that might be for the peace and happineſs of the kingdome, we cannot admit it in any other ſence, but as His Majeſtie taketh the meaſure of what will bee for the peace and happineſſe of the kingdome from ſome few ill affected perſons about him contrary to the advice and Judgement of His great Councell of Parliament. And becauſe the Advice of both Houſes of PARLIAMENT hath through the ſuggeſtions of evill Councellors been ſo much undervalued of late, and ſo abſolutely rejected and refuſed, wee hold it fit to declare unto the Kingdome (whoſe honour and intereſt is ſo much concerned in it) what is the priviledge of the great Councell of Parliament herein, and what is the Obligation that lyeth upon the Kings of this Realme to paſſe ſuch Bills as are offered unto them by both Houſes of Parliament, in the name, and for the good of the whole kingdome whereunto they ſtand ingaged both in conſcience and in juſtice to give their royall aſſent; In conſcience, in reſpect of the Oath that is or ought to bee taken by the KINGS of this Realme at their CORONATION aſwell to confirm by their Royall aſſent ſuch good Lawes as their people ſhall chooſe,

and

and to remedy by Law ſuch inconveniences as the Kingdome may ſuffer, as to keep and protect the Lawes already in being as may appeare both by the forme of the Oath upon Record, and in bookes of good Authority, and by the Statute of the 25 of *Edw.*3. entituled the Statute of Proviſors of Benefices, the forme of which Oath, and the cauſe of that Statute concerning, are as followeth.

Forma juramenti ſoliti & conſueti præſtari, per Reges Anglie in eorum Coronatione. Rot. Parl' 1. H. 4. N. 17. 2.

Servabis Eccleſiæ Dei, Cleroque & populo pacem ex integro & concordiam in Deo ſecundum vires tuas?

Reſpondebit, Servabo.

Facies fieri in omnibus judiciis tuis equam & rectam juſtitiam, & diſcretionem in miſericordia & lenitate ſecundum vires tuas?

Reſpondebit, Faciam.

Concedis juſtas leges & conſuetudines eſſe tenendas & permittis per te eas eſſe protegendas & ad honorem Dei corroborandas quas vulgus elegerit ſecundum vires tuas?

Reſpondebit, Concedo & permitto.

Adjiciunturque prædictis interrogationibus quæ juſta fuerunt, pernunciatis iſque omnibus confirmet Rex ſe omnia ſervaturum ſacramento ſuper altare præſtito coram cunctis.

A Clauſe in the Preamble of a Statute made 25 *Edw.*3. Entituled the Statute of Proviſors of Benefices.

Whereupon the ſaid Commons have prayed our ſaid Lord the King, that ſith the right of the Crown of *England*, and the Law of the ſaid Realm is ſuch, that upon the miſchiefs and damages which happen to his Realm, he ought, and is bound by his Oath, with the accord of his people in his Parliament, thereof to make remedy and Law, and in removing the miſchiefs and damages which thereof enſue, that it may pleaſe him thereupon to ordain remedy.

Our Lord the King ſeeing the miſchiefs and damages before mentioned, and having regard to the ſaid Statute, made in the time of his ſaid Grandfather, and to the cauſes contained in the ſame, which Statute holdeth alwayes his force, and was never defeated, repealed, nor adnulled in any point, and by ſo much he is bounden by his Oath to cauſe the ſame to be kept as the Law of his Realm, though that by

ſufferance and negligence it hath beene hithence attempted to the contrary, alſo having regard to the grievous complaints made to him by his people in divers of his Parliaments holden heretofore, willing to ordaine remedy for the great damages and miſchiefs which have hapned, & daily do happen to the Chur. of *England*, by the ſaid cauſe.

Here the Lords and Commons claime it directly as the right of the Crowne of *England*, and of the Law of the Land, and that the King is bound by his Oath, with the accord of his people in Parliament to make remedy and Law upon the miſchiefs and damages which happen to this Realme, and the King doth not deny it, although he take occaſion from a Statute formerly made by his Grandfather, which was layed as part of the grounds of this Petition, to fixe his Anſwer upon another branch of his Oath, and pertremits that which is claimed by the Lords and Commons, which he would not have done if it might have beene excepted againſt.

In Juſtice they are obliged thereunto in reſpect of the truſt repoſed in them, which is aſwell to preſerve the Kingdome by the making of new Lawes where there ſhalbe need, as by the obſerving of Lawes already made. A Kingdome being many times aſmuch expoſed to ruine for the want of a new Law, as by the violation of thoſe that are in being, and this is ſo cleare a right, that no doubt his Majeſty will acknowledge it to be as due unto his people as his protection; but how far forth he is obliged to follow the judgement of his Parliament therin, that is the queſtion. And certainly beſides the words in the Kings Oath, referring unto ſuch Lawes as the people ſhall chuſe, as in ſuch things which concern the Publick Weale and good of the Kingdom, they are the moſt proper Judges who are ſent from the whole Kingdome for that very purpoſe, ſo we doe not find that ſince Laws have paſſed by way of Bils (which are read thrice in both Houſes, and comitted, and every part and circumſtance of them fully weighed and debated upon the comitment, and afterwards paſſed in both Houſes) that ever the Kings of this Realm did dene them otherwiſe then is expreſſed in that uſuall Anſwer, *Le Roy ſaviſera*, which ſignifies rather a ſuſpenſion then a refuſal of the Royal Aſſent, and in thoſe other Laws which are framed by way of Petitions of right, the houſes of Parlia. have taken themſelves to be ſo far Judges of the Rights claimed by them, that when the Kings Anſw. hath not in every point bin fully according to their deſire, they have ſtill inſiſted upon their claim, and never reſted ſatisfied till ſuch time as they had

had an answer according to their owne demand, as was done in the late Petition of Right, and in former times upon the like occasion, and if the Parliament be Judge between the King and his people in the Question of Right (as by the manner of the claime in Petitions of Right, and by Judgements in Parliament, in Cases of illegall Impositions and Taxes, & the like it appeareth to be) why should they not be so also in the question of the common good, and necessity of the Kingdome, wherein the Kingdome hath as cleere a right also to have the benefit and remedy of Law, as in any thing whatsoever, and yet we do not deny but in private Bills, and also in publick Acts of Grace, as Pardons and the like grants of favour, his Majesty may have a greater latitude of granting or denying as he shall think fit.

All this considered, we cannot but wonder that the Contriver of this Message, should conceive the people of this land to be so void of common sence, as to enter into so deep a mistrust of those that they have, and his Majesty ought to repose so great a trust in, as to despaire of any security in their private Estates, by Discents, Purchases, Assurances, or Conveyances, unlesse his Majesty should by his Vote prevent the prejudice they might receive therein, by the Votes of both Houses of Parliament; As if they who are especially chosen and intrusted for that purpose, and who themselves must needs have so great a share in all grievances of the Subject, had wholly cast off all care of the Subjects good, and his Majesty had solely taken it up; And as if it could be imagined that they should by their Votes overthrow the rights of Discents, Purchases, or of any Conveyance or Assurance, in whose judgement the whole Kingdome hath placed all their particular Interesses, if any of them should be called in question in any of those Cases, and that (as knowing not where to place them with greater security) without any Appeale from them to any other person or Court whatsoever.

But indeed we are very much to seek how the case of *Hull* should concernne Discents, and Purchase, or Conveyances, and Assurances, unlesse it be in procuring more securitie to men in their private Interresses by the preservation of the whole from confusion and destruction, and much lesse doe wee understand how the Sovereigne Power was resisted and despised therein; Certainly no command from his Majesty, and his high Court of Parliament (where the Sovereigne power resides) was disobeyed by Sir *John Hotham*, nor yet was his Majesties Authority derived out of any other Court, nor by any legall Commission, or by any other way, wherein the Law hath appointed his

Majesties commands to be derived to his Subjects, and of what validity his verball Commands are, without any such stampe of his Authority upon them, and against the order of both Houses of Parliament, and whether the not submitting thereunto be a resisting and despising of the Sovereigne Authority, we leave it to all men to judge, that do at all understand the Government of the Kingdom.

We acknowledge that his Majestey hath made many expressions of his zeale and intentions against the desperate designes of Papists, but yet it is also as true, that the Counsels which have prevailed of late with him, have beene little sutable to those expressions and intentions: For what doth more advance the open and bloudy designe of the Papists in *Ireland*, (whereon the secret plots of the Papists here, doe in likely-hood depend) than his Majesties absenting himselfe, in that manner that hee doth from his Parliament, and setting forth such sharp Invectives against them, notwithstanding all the humble Petitions, and other means which his Parliament hath addressed unto him for his return, and for his satisfaction concerning their proceedings. And what was more likely to give a rise to the designes of Papists (whereof there are so many in the North neare to the Towne of *Hul*) and of other malignant and ill-affected persons, which are ready to joyn with them, or to the attempts of forrainers from abroad, than the continuing of that great Magazin at *Hull* at this time, and contrary to the desire and advice of both Houses of Parliament; so that we have too much cause to believe that the Papists have still some way and means, whereby they have influence upon his Majesties Councels for their own advantage.

For the Malignant party his Majesty needeth not a definition of the Law, nor yet a more full Character of them from both Houses of Parliament for to finde them out; if he will please onely to apply the Character that himselfe hath made of them to those unto whom it doth properly and truly belong, who are so much dis-affected to the peace of the Kingdome, as they that endevour to dis-affect his Majesty from the Houses of Parliament, and perswade him to bee at such a distance from them both in place and affection: Who are more dis-affected to the government of the Kingdome, than such as lead his Majesty away from hearkening to his Parliament, which by the constitution of this Kingdome is his great and best Counsell, and perswade him to follow the malitious Counsells of some private men, in opposing and contradicting the wholsome advices, and just proceedings of that his most faithfull Counsell

cell and higheſt Court? Who are they that not onely neglect and deſpiſe, but labour to undermine the Law, under colour of maintaining of it. But they that indeavour to deſtroy the fountaine and Conſervatory of the law, which is the Parliament? and who are they that ſet up other Rules for themſelves to walke by then ſuch as are according to Law, but they that will make other Judges of the Law, than the Law hath appointed, and ſo diſpence with their obedience, to that which the Law calleth Authority, and to their determinations and reſolutions to whom the Judgement doth appertaine by Law: For when private perſons ſhall make the Law to be their Rule, according to their owne underſtandings, contrary to the judgement of thoſe that are the competent Judges thereof, they ſet up unto themſelves other Rules than the Law doth acknowledge: who theſe perſons are, none knoweth better than his Majeſty himſelfe: And if he will pleaſe to take all poſſible caution of them, as deſtructive to the Common-wealth, and himſelfe, and would remove them from about him, it would be the moſt effectuall meanes to compoſe all the diſtractions, and to cure the diſtempers of the Kingdome.

For the Lord *Digby* his Letter, we did not make mention of it as a ground to hinder his Majeſtie from viſiting his owne Fort, but we appeale to the judgement of any indifferent man that ſhall read that Letter, and compare it with the poſture that his Majeſtie then did, and ſtill doth ſtand in, towards the Parliament, and with the circumſtances of that late action of his Majeſty, in going to *Hull*, whether the Advifors of that Journey, intended onely a viſit of that Fort and Magazine? as to the wayes and overtures of accommodation, and the meſſage of the 20 of January laſt, ſo often preſſed, but ſtill in vaine, as is alledged: Our Anſwer is, that although ſo often as the meſſage of the 20 of January, hath beene preſſed, ſo often have our priviledges beene cleerely infringed that a way and method of proceeding ſhould be preſcribed unto us, as well for the ſetling of his Majeſties Revenue, as for the preſenting of our owne deſires (a thing which in former Parliaments hath alwayes been excepted againſt as a breach of priviledge) yet in reſpect to the matter contained in that meſſage, and out of our earneſt deſire to beget a good underſtanding betweene his Maieſty, and us, wee ſwallowed downe all matters of Circumſtance, and had ere this time preſented the chiefe of our deſires to his Majeſty, had we not beene interrupted with continuall Denyalls even of thoſe things that were neceſſary for our preſent ſecurity and ſubſtance, and had not thoſe denyalls beene followed with perpetu-

all Invectives against us and our proceedings, and had not those invectives beene heaped upon us so thicke one after another, (who were already in a manner wholly taken up with the pressing affaires of this Kingdome, and of the Kingdome of *Ireland*) that as wee had little encouragement from thence to hope for any good Answers to our desires, so we had not so much time left us to perfect them in such a manner as to offer them unto his Majesty.

Wee confesse it is a Resolution most worthy of a Prince; and of his Majesty, to shut his eares against any that would incline him to a civill Warre, and to abhor the very apprehension of it, but we cannot beleeve that mind to have been in them that came with his Majesty to the House of Commons, or in them that accompanied his Majesty to *Hampton* Court, and appeared in a warlike manner at *Kingston* upon Thames, or in divers of them that followed his Majesty now lately to *Hull*, or in them that after drew their Swords at *Yorke*, demanding who would bee for the King, nor in them that advised his Majesty to declare Sir *John Hotham* a Traytor before the Message was sent concerning that businesse to the Parliament, or to make propositions to the Gentlemen of the County of *Yorke*, to assist his Majesty to proceed against him in a way of force before he had, or possible could receive an Answer from the Parliament, to whom he had sent to demand Justice of them against Sir *John Hotham* for that fact, and if those malignant spirits shall ever force us to defend our Religion, the Kingdome, the Priviledges of Parliament, and the Rights and Liberties of the Subiects, with our Swords, the bloud and destruction that shall ensue thereupon, must bee wholly cast upon their Accompt, God and our owne Consciences tell us that we are cleare, and we doubt not but God and the whole world will cleare us therein.

For Captaine *Legg* we did not say that he was accused, or that there was any charge against him for the bringing up of the Army, but that hee was imployed in that businesse. And for that question concerning the Earle of *New Castle* mentioned by his Majesty, which is said to have bin asked long since, and that it is not easie to bee answered; Wee conceive that it is a question of more difficulty and harder to be answered: Why, when his Majesty held it necessary, upon the same grounds that first moved from the Houses of Parliament; That a Governour should be placed in that towne, Sir *John Hotham* a Gentleman of knowne Fortune and Integrity, and a person of whom both Houses of Parliament had expressed their confidence, should be refused by his Majesty, and the Earle of

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New-Caſtle (who by the way was ſo far named in the buſineſſe of the bringing up of the Army, that although there was not ground enough for a judiciall proceeding, yet there was ground of ſuſpition, at leaſt his reputation was not left ſo unblemiſhed thereby, as that hee ſhould bee thought the fitteſt man in *England* for that imployment of *Hull*) ſhould be ſent downe in a private way from his Majeſty to take upon him that government, and why he ſhould diſguiſe himſelfe under another name, when he came thither, as hee did. But whoſoever ſhall conſider, together with theſe circumſtances, that at the time when Sir *Iohn Hotham* was firſt appointed by both Houſes of Parliament to take upon him that imployment, which was preſently after his Majeſties comming to the Houſe of Commons, and upon the retiring of himſelfe to *Hampton Court* and the L. *Digbies* aſſembling of Cavalierers at *Kingſtone* upon *Thames*, will finde reaſon enough, why that Towne of *Hull* ſhould bee committed rather to Sir *Iohn Hotham*, be the authority of both Houſes of Parliament, than to the Earle of *New-Caſtle*, ſent from his Majeſtie in that manner that he was; And for the power that Sir *Iohn Hotham* hath from the Houſes of Parliament, the better it is known and underſtood, we are confident the more it will be approved of and juſtified; And as we doe not conceive that his Majeſties refuſall to have that Magazin removed could give any advantage againſt him to have it taken from him, and as no ſuch thing is done, ſo wee cannot conceive for what other reaſon any ſhould councell his Majeſtie not to ſuffer it to be removed, from the deſire of both Houſes of Parliament except it be that they had an intention to make uſe of it againſt them.

We did not except againſt thoſe that preſented a Petition to his Majeſtie at *Yorke* for the continuance of the Magazine at *Hull*, in reſpect of their condition, or in reſpect of their number, becauſe they were meane perſons, or becauſe they were few; but becauſe they being but a few, and there being ſo many more in the Countie of as good qualitie as themſelves (who have by their Petition to his Majeſtie diſavowed that Act of theirs) that they ſhould take upon them the ſtile of all the Gentrie and Inhabitants of that Countie, and under that title ſhould preſume to interpoſe their advice, contrary to the Votes of both Houſes of Parliament, and if it can be made to appeare that any of theſe Petitions that are ſaid to have beene preſented to the Houſes of Parliament, and to have beene of a

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ſtrange nature, were of ſuch a nature as that, we are confident that they were never received with our conſent and approbation.

Whether there was an intention to deprive Sir *Iohn Hotham* of his life, if his Majeſtie had beene admitted into *Hull*, and whether the information were ſuch, as that he had ground to beleeve it, we will not bring it into queſtion; for that was not, nor ought to have beene the ground for doing what he did, neither was the number of his Majeſties Attendants, for being more or fewer, much conſiderable in this caſe: For although it be true, that if his Majeſtie had entred with twenty horſe onely, hee might haply have found meanes for to have forced the entrance of the reſt of his Traine, who being once in the Towne would not have beene long without Armes; yet that was not the ground that Sir *Iohn Hotham* was to proceed upon, but upon the admittance of the King into the Towne at all, ſo as to deliver up the Towne and Magazin unto him, and to whomſoever hee ſhould give the command thereof, without the knowledge and conſent of both Houſes of Parliament, by whom he was entruſted to the contrary; and his Majeſtie having declared that to be his intention concerning the Towne, in a Meſſage that hee ſent to the Parliament not long before hee went to *Hull*, ſaying, That hee did not doubt but that Towne ſhould bee delivered up to him, whenſoever hee pleaſed, as ſuppoſing it to bee kept againſt him: and in the like manner concerning his Magazine, in his Meſſage of the foure and twentieth of *Aprill*, wherein it is expreſſed, that his Majeſtie went thither with a purpoſe to take into his hands the Magazine, and to diſpoſe of it in ſuch manner as hee ſhould thinke fit: upon theſe termes Sir *Iohn Hotham* could not have admitted his Majeſtie, and have made good his truſt to the Parliament, though his Majeſtie would have entred alone, without any Attendance at all of his owne, or of the Prince, or Duke, his ſonnes; which we doe not wiſh to be leſſe than they are in their number, but could heartily wiſh that they were generally better in their conditions.

In the cloſe of this Meſſage, his Majeſtie ſtates the caſe of *Hull*, and thereupon inferreth, that the Act of Sir *Iohn Hotham* was levying of warre againſt the King, and conſequently that it was no leſſe than high Treaſon, by the Letter of the Statutes of 25 *Edw.* 3. *Cap.* 2. unleſſe the ſenſe of that Statute be very far differing from the Letter thereof.

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In the ſtating of this Caſe divers particulars may be obſerved, wherin it is not rightly ſtated: As firſt, That his *Maieſties* going to Hull, was only an endeavour to viſit a Towne and Fort of his; whereas it was indeed to poſſeſſe himſelfe of the Towne and *Magazine* there, and to diſpoſe of them as he himſelfe ſhould thinke good, without and contrary to the Advices and Orders of both *Houſes* of *Parliament*, as doth clearly appeare by his Majeſties owne Declaration of his intentions therein, by his *Meſſages* to both *Houſes* immediately before and after that journey. Nor can we beleeve that any man that ſhall conſider the circumſtances of that journey to *Hull*, can think that his *Maieſtie* would have gone thither at that time, and in that *Poſture* that he was pleaſed to put himſelfe in towards the *Parliament*, if he had intended onely a viſit of the *Towne* and *Magazine*. Secondly, it is ſaid to be his Majeſties owne *Towne*, and his owne *Magazine*: which being underſtood in that ſenſe as was before expreſſed, as if his Majeſtie had a private intereſt of propriety therein, we cannot admit it to be ſo. Thirdly, (which is the main point of all) Sir *Iohn Hotham* is ſaid to have ſhut the gates againſt his *Maieſtie*, and to have made reſiſtance with armed men in defiance of his *Maieſty*: whereas it was indeed in obedience to his Majeſtie and his authority, and for his ſervice and the ſervice of the Kingdome, for which uſe onely all that intereſt is, that the King hath in the *Towne*; and it is no further his to diſpoſe of, that he uſeth it for that end: And Sir *Iohn Hotham* being commanded to keepe the *Towne* and *Magazine* for his Majeſtie and the Kingdome, and not to deliver them up, but by his Majeſties authority ſignified by both *Houſes* of *Parliament*, all that is to be underſtood by thoſe expreſſions of his denying and oppoſing his Majeſties entrance, and telling him in plaine termes he ſhould not come in, was only this, That he humbly deſired his Maieſty to forbeare his entrance, till he might acquaint the *Parliament*, and that his authority might come ſignified to him by both *Houſes* of *Parliament*, according to the truſt repoſed in him. And certainly if the Letter of the Statute of 25. *Ed.* 3. *cap.* 2. be thought to import this, that no warre can be levied againſt the King, but what is directed and intended againſt his perſon; or that every levying of Forces for the defence of the Kings authority, and of his Kingdome, againſt the perſonall commands of the King oppoſed thereunto, (though accompanied with his preſence) is levying warre againſt the King, it is very farre from the ſenſe of that Statute; and ſo much the Statute it ſelfe ſpeakes (beſides the

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authority of Book-cases, Presidents of divers Traitours condemned upon that interpretation thereof:) For if the Clause of levying Warre had been meant onely against the Kings Person, what need had there beene thereof, after the other branch of Treason in the same Statute of compassing the Kings death, which would necessarily have implyed this, and because the former clause doth imply this, it seemes not at all to be intended in this latter branch, but onely the levying of Warre against the King, that is against his lawes and authority; and the levying of war against his lawes and authority, though not against his person, is levying warre against the King: but the levying of force against his personall commands, though accompanied with his presence, and not against his lawes and authority, but in the maintenance thereof, is no levying of warre against the King but for him. Heere then is our case: in a time of so many successive plots and designes of force against the *Parliament* and Kingdome; in a time of probable invasion from abroad, and that to begin at *Hull*, and to take the opportunity of seizing upon so great a *Magazine* there; in a time of so great distance and alienation of his *Maiesties* affections from his Parliament, and in them from his Kingdome, which they represent, by the wicked suggestion of a few malignant persons, by whose mischievous Counsels he is wholly led away from his Parliament, and their faithfull advises and Councels, in such a time the Lords and Commons in *Parliament* command Sir *John Hotham* to draw in some of the trained Bands of the parts adjacent to the Towne of *Hull*, for the securing of that *Towne* and *Magazine*, for the service of his *Maiesty* and of the Kingdome; of the safety where there is a higher trust reposed in them than any where else, and they are the proper Judges of the danger thereof.

This *Towne* and *Magazine* being intrusted to Sir *John Hotham*, with expresse order not to deliver them up, but by the Kings authority signified by both *Houses* of *Parliament*; his *Maiestie*, contrary to the advice and direction of both *Houses* of Parliament without the authoritie of any Court, or of any legall way wherein the Law appoints the King to speake and command, accompanied with the same evill Counsell about him that he had before, by a verball command requires Sir *John Hotham* to admit him into the Towne, that hee might dispose of it, and of the *Magazine* there, according to his owne, or rather according to the pleasure of those evill Counsellours, which are still in so much credit about him: in like manner as the Lord *Digby* hath continuall

nuall recourſe unto, and countenance from the Queens Majeſty in *Holland*: by which meanes he hath opportunity ſtill to communicate his trayterous ſuggeſtions and conceptions to both their Majeſties, ſuch as thoſe were concerning his Majſties retiring to a place of ſtrength, and declaring himſelfe, and his owne advancing of his Majeſties ſervice in ſuch a way beyond the Seas, and after that reſorting to his Majeſty in ſuch a place of ſtrength; and divers other things of that nature contained in his Letter to the Queenes Majeſty, and to Sir *Lewis Dives*, a perſon that had not the leaſt part in this late buſineſſe of *Hull*; and was preſently diſpatcht away into *Holland*, ſoone after his Maieſties returne from *Hull*, for what purpoſe we leave the world to judge.

Vpon the refuſall of Sir *John Hotham* to admit his *Majeſty* into *Hull*, preſently without any due proceſſe of Law, before his Maieſty had ſent up the narration of his fact to the *Parliament*, he was proclaimed Traitor, and yet it is ſaid, that therein there was no violation of the Subiects right, nor any breach of the Law, nor of the *priviledge* of *Parliament*; though Sir *John Hotham* be a member of the *Houſe* of *Commons*: and that his Maieſtie muſt have better reaſon then bare Votes to beleeve the contrary. Although the Votes of the *Lords* and *Commons* in Parliament, being the great *Councell* of the *Kingdome*, are the reaſon of the King and of the Kingdome; yet theſe Votes doe not want cleare and apparant reaſon for them: For if the ſolemne proclaiming a man a Traitor ſignifie any thing, it puts a man, and all thoſe that any way ayde, aſſiſt, or adhere unto him, into the ſame condition of Traytors, and drawes upon him all the conſequences of Treaſon; and if this may bee done by law without due proceſſe of law, the Subiect hath a very poore defence of the law, and a very ſmall, if any Proportion of liberty thereby: and it is as little ſatisfaction to a man that ſhall be expoſed to ſuch penalties, by that declaration of him to be a Traitour, to ſay hee ſhall have a legall tryall afterwards, as it is to condemne a man firſt and try him afterwards: And if there can be a neceſſity for any ſuch proclaiming a man a Traitour without due proceſſe of law; yet there was none in this caſe: For his Maieſty might have as well expected the Juſtice of the Parliament (which was the right way) as he had leiſure to ſend them to demand Juſtice againſt Sir *John Hotham*. And the breach of *priviledge* of Parliament is as cleare in this caſe as the ſubverſion of the Subiects common right: For though the *priviledges* of Parliament doe not extend to thoſe caſes mentioned in the declaration of

Treason, Felony, and breach of the peace, so as to exempt the Members of Parliament from punishment, nor from all manner of processe and triall, as it doth in other cases, yet it doth priviledge them in the way and method of their tryall and punishment, and that the Parliament should have the cause first brought before them, that they may judge of the fact, and of the grounds of the accusation, and how farre forth the manner of their tryall may concern or not concern the *priviledge* of Parliament: otherwise it would be in the power not only of his Majesty, but of every Privat man, under pretensions of Treasons, or those other crimes, to take any man from his service in parliament, and so as many one after another as hee pleaseth, and consequently to make a Parliament what he will, when hee will, which would bee a breach of so essentiall a priviledge of Parliament, as that the very being thereof depends upon it: and therefore we no wayes doubt, but every one that hath taken the Protestation, will according to his solemne vow and Oath, defend it with his life and fortunes. Neither doth the sitting of a Parliament suspend all or any Law, in maintaining that Law which upholds the priviledge of Parliament, which upholds the Parliament, which upholds the Kingdom: And we are so far from believing that his Majesty is the only person against whom treason cannot be committed, that in some sence we acknowledge he is the only person against whom it can be committed; that is, as he is King, and that treason which is against the Kingdom is more against the King, then that which is against his person, because he is King: For that very treason is not Treason as it is against him as a man, but as a man that is a King; and as he hath relation to the Kingdom, and stands as a person intrusted with the Kingdom, and discharging that trust. Now the case is truly stated & all the world may judge where the fault is, although we must avow that there can be no competent judge of this or any the like case but a Parliament, and we are as confident, that his Majesty shall never have cause to resort to any other Court or Course, for the vindication of his lust priviledges, and for the recoverie and maintenance of his known and unboubted Rights, if there should be any invasion or violation thereof, than to his high Court of Parliament. And in case wicked Counsellours about him shall drive him into any other Course from and against his Parliament, what ever are his Majesties expressions and intentions, we shall appeale to all mens consciences, and desire that they would lay their hands upon their harts, and thinke with them-

themselves, whether such *persons* as have of late and still do resort to his Majestie, and have his care and favour most, either have beene or are more zealous Assertors of the true Protestant Profession (although wee beleeve they are more earnest in the Protestant Profession, than in the Protestant Religion) or of the Law of the Land, the Lybertie of the Subject, and the Priviledge of the Parliament. then the Members of both Houses of Parliament, who are insinuated to be the defenders, if not the destroyers of them; And whether if they could master this *Parliament* by force they would not hold up the same power to deprive us of all *Parliaments*, which are the ground and Pillar of the Subjects Lybertie, and that which onely maketh *England* a free Monarchie.

For the Order of Assistance to the Committees of both Houses, as they have no directions or instructions, but what have they *Law* for their *Limits*, and the safety of the Land for their ends; so wee doubt not but all persons mentioned in that Order, and all his Majesties good Subjects will yeeld obedience to his *Majesties Authority* signified therein by both *Houses of Parliament*: And that all men may the better know their duty in matters of that nature, and upon how sure a ground they go that follow the Judgement of *Parliament* for their guide, we wish them Judiciously to consider the true meaning and ground of that Statute made in the eleventh yeare of *Hen.7.cap.1.* which is printed at large in the end of his Majesties Message of the fourth of *May*. This Statute provides, that none that shall attend upon the King, and doe him true service, shall be attainted or forfeit any thing: What was the scope of this Statute? To provide that men should not suffer as Traytors for serving the King in his Warres according to the duty of their Allegeance: If this had been all, it had been a very needlesse and ridiculous Statute: Was it then intended (as they may seeme to take the meaning of it to bee, that caused it to be printed after his Majesties Message,) that they should bee free from all crime and penalty that should follow the King and serve him in *Warre* in any case whatsoever, whether it were for or against the Kingdome, and the Lawes thereof? that cannot bee, for that could not stand with the duty of their Allegeance; which in the beginning of this Statute is expressed to bee, to serve the King for the time being in his Warres for the defence of him and the Land; and therefore if it bee against the Land, (as it cannot be understood to be otherwise if it be against the Parliament, the representative body of the

Kingdome;) It is a declining from the duty of Allegiance, which this Statute supposeth may bee done, though men should follow the Kings Person in the Warre: Otherwise there had been no need of such a proviso in the end of this Statute, that none should take benefit thereby that should decline from their Allegeance. That therefore which is the principle Verbe in this Statute, the *serving of the King for the time being*; which cannot be meant of a *Perkin Warbeck*, or any that should call himselfe King; but such a one as what ever his Title might prove, either in himselfe or in his Ancestors, should be received and acknowledged for such by the Kingdome; the consent whereof cannot bee discerned but by *Parliament*; the Act whereof is the Act of the whole Kingdome by the personall suffrage of the Peeres, and the delegate consent of all the Commons of *England*. And *Hen.* 7. a wise King considering that what was the Case of *R.* 3. his Predecessor, might by chance of Battell bee his owne, and that hee might at once by such a Statute as this, satisfie such as had served his Predecessor in his Warrs; and also secure those that should serve him, who might otherwise feare to serve him in the Warres, least by change of Battell that might happen to him also (if a Duke of York had set up a Title against him) which had hapened to his Predecessor: hee procured this Statute to bee made, that no man should bee accounted a Traytor for serving the King in his Warres for the time being, that is, which was for the present allowed and received by the Parliament in behalfe of the Kingdome: and as it is truely sugested in the preamble of the Statute. It is not agreeable to reason or conscience that it should be otherwise, seeing men should be put upon an impossibility of knowing their duty, if the judgement of the highest Court should not be a Rule and guide to them: and if the Judgment thereof should be followed, where the question is who is King? Much more, what is the best service of the King and Kingdome; and therefore those that shall guide themseves by the Judgment of Parlitment, ought what ever happen to be secure and free from all account and penalties, upon the grounds and equity of this very Statute.

We shall conclude, that although those wicked Councellors about his Maiestie, have presumed under his Maiesties name to put that dishonour and affront upon both Houses of *Parliament*, as to make them the countenancers of Treason, enough to have dissolved all the bands, sinews of confidence betweene his Maiestie and his *Parliament*, (of whom

whom the *Maxime* of the law is, That a diſhonourable thing ought not to be imagined of them) yet we doubt not but it ſhall in the end appeare to all the world, that our endeavours have beene moſt hearty and ſincere, for the maintenance of the true Proteſtant Religion, the Kings juſt Prerogatives, the Lawes and liberties of the Land, and the priviledges of Parliament; in which endeavours by the grace of God we will ſtill perſiſt, though we ſhould periſh in the worke: which if it ſhould bee, it is much to bee feared, That Religion, Lawes Liberties and Parliaments, would not be long-lived after us.

FINIS.